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By: Wayne M. Greenwald

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

1934 BEDFORD, LLC,

Alleged Debtor.

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Case No. 19-44751-CEC
Involuntary
Chapter 11

ALLEGED DEBTOR’S OBJECTION TO
SECURED CREDITOR’S MOTION FOR ORDERS AUTHORIZING
EXAMINATIONS, PURSUANT TO FED.R.BANKR.P. 2004,
WITH POINTS AND AUTHORITIES

TO: HON. CARLA E. CRAIG
UNITED STATES CHIEF BANKRUPTCY JUDGE

The alleged debtor, 1934 Bedford, LLC, (“Bedford”), by its attorneys
represents:

PRELIMINARY STATEMENT

1. Bedford objects to 1930 Bedford Avenue LLC’s (“1930”) motion seeking orders, pursuant to Fed.R.Bankr.P. 2004, for authority to examine Bedford, its principal and the petitioning creditors (the “Motion”).

2. The Motion must be denied because 1930 commenced a contested matter, See Fed.R.Bankr.P. 9014.
3. A pending contested matter precludes granting the Motion's request for discovery, pursuant to Fed.R.Bankr.P. 2004.

THE MOTION MUST BE DENIED

4. The Motion is couched in 1930's motion for orders, pursuant to 11 U.S.C. § 543(d), relieving its receiver from complying with the turnover requirements of 11 U.S.C. § 543(a) and (b) (the "Turnover Motion" ECF # 8. A copy of the Turnover Motion, without exhibits is annexed hereto and incorporated herein as Exhibit "A.").
5. The Turnover Motion makes allegations for which no response is needed or required now.
6. Absent a resolution, Bedford will address them in opposing the Turnover Motion.
7. However, the Turnover Motion is a contested matter. See, Fed.R.Bankr.P. 9014, *In re W. Coast Interventional Pain Med., Inc.*, 435 B.R. 569, 581 (Bankr. N.D. Ind. 2010), *In re LB Steel, LLC*, 572 B.R. 690, 706 (Bankr. N.D. Ill. 2017)(" . . . a request for turnover under § 543 is brought in a

bankruptcy case as a contested matter.”); *In re Tallerico*, 532 B.R. 774, 778 (Bankr. E.D. Cal. 2015) (§ 543 turnover entails a contested matter.)

8. 1930's pending contested matter, Turnover Motion, precludes discovery through Fed.R.Bankr.P. 2004. See, *In re Bakalis*, 199 B.R. 443, 447–48 (Bankr. E.D.N.Y. 1996), *In re Bennett Funding Grp., Inc.*, 203 B.R. 24, 28 (Bankr. N.D.N.Y. 1996)(“The well recognized rule is that once an adversary proceeding or contested matter has been commenced, discovery is made pursuant to the Fed.R.Bankr.P. 7026 *et seq.*, rather than by a Fed.R.Bankr.P. 2004 examination.”), *In re Cambridge Analytica LLC*, 600 B.R. 750, 752 (Bankr. S.D.N.Y. 2019)(“ . . .there is a well-recognized rule that once an adversary proceeding or contested matter is commenced, discovery should be pursued under the applicable Federal Rules of Civil Procedure, and not Rule 2004.”).
9. Accordingly, the Motion must be denied.

WHEREFORE, Bedford asks this Court to issue orders: a.) denying the Motion; b.) awarding Bedford its costs, attorneys’ fees and expenses in defending against

the Motion; and c.) such other and further relief as this Court deems proper.

Dated: New York, NY
August 28, 2019

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By: /S/ Wayne M. Greenwald, Pres.
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